

### **REMARKS**

The pending Office Action addresses claims 28-42. The Examiner rejects claims 28-35, 37-42 and objects to claim 36. Applicant respectfully requests entry of this amendment and submits that entry is proper as it places the claims in condition for allowance in accordance with statements made by the Examiner in the outstanding office action.

#### ***Amendments to the claims***

Applicant has amended independent claim 28 to specify a *dry* food source. Support for this amendment is found in the specification, for example, at page 6, lines 27-29 as well as at page 4, lines 5-10.

Applicant has cancelled dependent claim 37.

Applicant has added independent claim 45, combining the embodiment recited in previously presented independent claim 28 with the embodiment recited dependent claim 36.

Applicant has also added claim 46, combining the embodiment recited in previously presented claim 28 with at least one of the carriers recited in cancelled claim 37.

These amendments do not add new matter.

#### ***Claim rejections***

Claims 28-35 and 37-42 are rejected pursuant to 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,972,273 B2 of Sedun et al. ("Sedun"). Applicant respectfully submits that this rejection is obviated by Applicant's amendment of independent claim 28 and cancellation of dependent claim 37. Applicant also submits that newly added independent claims 45 and 46 are allowable for the same reasons that claims 28-35 and 38-42 present patentable subject matter, as discussed more fully below.

Claim 28, as amended, recites a pesticidal composition comprising, among other components, a *dry* food source effective as a bait edible to pests. Applicant submits that Sedun neither teaches nor even suggests any dry food bait source whatsoever. The Examiner points out that Sedun refers to amino acids and carboxylic acids, fatty acids, urea, and glycols, which may be effective as a bait. However, none of these compounds constitute a *dry* food source, but instead, are wetting agents and /or humectants. (See Sedun, for example,

at col. 5, line 67-col.6, line 7.) Therefore, Applicant submits that Applicant's claimed composition that includes dry baits recited in amended claim 28, supported in the specification for example, at page 6, lines 27-29 as well as at page 4, lines 5-10, distinguishes over Sedun. In this regard, the Examiner concedes in the latest Office Action that Applicant's "specification of the inventive foods as of claim 36," which include dry food sources, is "unobvious and not shown by Sedun."

Accordingly, Applicant respectfully submits that independent claim 28 as amended, as well as claims 29-36 and 37-42 which depend therefrom, represent patentable subject matter over Sedun and allowance is therefore solicited.

Applicant has added independent claim 45 to recite a pesticidal composition which includes the food sources identified in dependent claim 36. The Examiner has indicated that claim 36 is allowable over Sedun. Accordingly, Applicant requests that new claim 45 be allowed.

Finally, Applicant has added new claim 46 to recite a pesticidal composition including, among other components, the carrier materials recited in cancelled dependent claim 37. Applicant submits that newly added claim 46 represents patentable subject matter because on page 3 of the outstanding office action, the Examiner indicated that the "carriers of claim 37 is seen as unobvious over the prior art of record, & not shown by Sedun."

### ***Conclusion***

In view of the foregoing amendments and remarks, Applicant submits that all claims are pending claims are in condition for allowance, and allowance is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicant if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

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By: /William C. Geary III/

NUTTER MCCLENNEN & FISH LLP  
World Trade Center West  
155 Seaport Boulevard  
Boston, Massachusetts 02210-2604  
(617) 439-2000  
(617) 310-9000 (Fax)

William C. Geary III  
Registration No.: 31,359  
Attorney for Applicant